

**MINUTES
PLANNING COMMISSION
SPECIAL MEETING
LAKEWOOD, OHIO
MAY 21, 2020
5:00 P.M.
REMOTE MEETING - RECORDED**

Under the orders of the Governor and Director of Health of Ohio, the Planning Commission will meet remotely until further notice.

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The meeting was called to order at 5:00 P.M.

1. Roll Call

Members Present

Kyle Baker, Chair
Nate Kelly
Kyle Krewson, Vice Chair
Monica Jordan (Rossiter)
Jeffrey Wise

Others Present

Katelyn Milius, Acting P&D Director, Secretary
Jennifer Swallow, Executive Assistant Law Director
Police Chief Tim O'Malley,
Christopher Parmelee, Assistant Building Commissioner
Charles Huber, Plans Examiner

Although Nate Kelly was expected to participate, he was not present at Roll Call. A motion was made by Mr. Baker, seconded by Mr. Krewson to **EXCUSE** the absence of Nathan Kelly. All the members voting yea, the motion passed.

Mr. Kelly joined the meeting at 7:06 P.M.

2. Opening Remarks

Administrative staff ("staff") read the Opening Remarks into record.

**NEW BUSINESS
COMMUNICATION**

3. Docket No. 05-14-20

Discussion of Outdoor Dining Resolution

Staff provided a presentation. Ms. Milius outlined what is included in the resolution:

- Flexibility for Planning Commission to waive requirements of 1161.03.

- Administrative review by Architectural Board of Review.
- Waived application for businesses
- Temporary space permitted to be open during daylight hours to ensure safety (until 9 P.M.).
- Up to 30 seats expanded for new or expanded outdoor dining, can exceed 30 seats based on Planning Commission review and recommendation.

Ms. Swallow outlined the considerations:

- Language already allows for the use of the public right-of-way regardless of whether it's a parklet patio dining.
- Liquor control and enforcement of opener container. Alcohol traveling across the public right-of-way to be served in a parklet.
- Federal or State Roadway and funding that we receive.
- Standard criteria established prior to accepting applications that we can apply to every applicant for meaningful and responsible application across the board to avoid appeals, potential lawsuit and adequately address the balance of public safety and our local economy (Creating the criteria under a "we know it when we see it" standard leaves up open to decisions that are not well thought out and challengeable.

Police Chief O'Malley presented the safety issues. Planning Commission members ("Commission") and staff discussed parklets, more frequent meetings, the use of side streets as parklets, traffic studies, businesses outlay of financing without knowing the outcome, the opportunity to expand upon Lakewood's vibrancy, establish criteria for parklets, objection to the word "parklet", expansion of current sidewalk/patio dining, extend the date to October 31st, parklets should be delayed for further review and examination, extend outdoor dining to the edge of the sidewalk, create criteria for the value of applications. Public comment was taken.

Comments/questions and answers:

- Maintaining social distancing of pedestrians between parklet and diners.
 - Should be considered based on site plan.
- Pilot program.
 - Has been discussed, an option currently.
- Maintaining crowd control.
 - Monitoring of social distancing is difficult.
- The next steps of the resolution is modifications of the resolution.
 - October 31st instead of October 1st.
 - Remove the ability of the Commission to request a traffic study.
 - Waive the application fee.
 - Parklets determination.
 - Closing time at 10:00 P.M.

Will the commission recommend to City Council with or with/out parklet language? Need language for the administrative review for ABR. Add review of the City Engineer and Division of Housing and Building.

A motion was made by Mr. Wise, seconded by Ms. Jordan to **RECOMMEND** to City council with the removal of the parklet language to allow for review.

Additional comment by the Commission was given regarding parklets.

Ms. Jordan voting yea, Mr. Baker voting nay, Mr. Wise voting yea, Mr. Krewson voting nay, Mr. Kelly voting nay, the motion failed.

A motion was made by Mr. Baker, seconded by Mr. Kelly to **REFER** to City Council with the comments noted in the draft and the addition of the parklet reference.

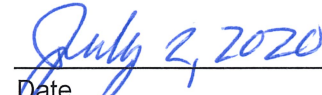
Ms. Jordan, Mr. Baker, Mr. Wise, Mr. Krewson, Mr. Kelly voting yea, the motion passed.

ADJOURN

A motion was made by Mr. Krewson, seconded by Mr. Kelly to **ADJOURN** the meeting at 6:08 P.M. All the members voting yea, the motion passed.



Signature



Date



RESOLUTION NO. 2020-31

Bullock, Kepple, Litten, Neff, O'Malley, Rader,
BY: Shachner

A RESOLUTION to take effect immediately provided it receives the vote of at least two thirds of the members of Council, or otherwise to take effect at the earliest period allowed by law, authorizing the Planning Commission to grant temporary conditional use permits for outdoor/seasonal dining facilities during this state of emergency to qualifying applicants.

WHEREAS, on May 7, 2020, Governor DeWine announced that restaurants may resume outdoor dining service on May 15, 2020 and indoor dining service on May 21, 2020; and

WHEREAS, restaurants must follow social distancing guidelines, including ensuring that patrons remain six feet apart when dining unless there is a physical barrier between parties; and

WHEREAS, it is still unknown when a Covid-19 vaccine will be widely available; and

WHEREAS, bars and restaurants throughout the region have struggled to maintain financial solvency and comply with the Governor's orders, resulting in at least one Lakewood restaurant to permanently close; and

WHEREAS, the City of Lakewood recognizes that restaurants are critical to the vibrancy of Lakewood and to ensure that our local restaurants remain successful and that the public feels safe patronizing them the City of Lakewood should provide more opportunities for restaurants to expand their outdoor dining capacity to promote compliance with the Governor's orders; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this resolution is an emergency measure and that it shall take effect immediately, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments in that the State of Ohio is under an order of a state of emergency from the Governor and it is imperative to provide assistance to Lakewood's small businesses to help them continue their operations under the orders of the Governor and the Ohio Director of Health and to maintain public safety while doing so; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The City of Lakewood hereby authorizes the Planning Commission to temporarily waive or modify the requirements in Lakewood Codified Ordinance Sections 1161.03 and 11291 to expand outdoor/seasonal dining facilities during the COVID-19 Pandemic for the duration a state of emergency declared by the State of Ohio, the County of Cuyahoga, or the City of Lakewood or until October 31, 2020, whichever comes first, to all applicants that the

Planning Commission find satisfy its requirements and supersedes Lakewood Codified Ordinance Sections 1161.03 and 112913.

Section 2. The City of Lakewood authorizes the Planning Commission to waive any requirement enumerated in Lakewood Codified Ordinance Section 1161.03 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES and Lakewood Codified Ordinance Section 1129.13 SUPPLEMENTAL REGULATIONS FOR OUTDOOR/SEASONAL DINING FACILITY during the time period described in Section 1 if the Planning Commission finds by a vote of at least two thirds of its members present at a meeting that the waiving of the requirement will not cause substantial harm to the health and safety of the public and is in accordance with the Community Vision.

Section 2. The Planning Commission shall not condition or delay the granting of temporary conditional use permit on the completion of a traffic study.

Section 3. The Conditional Use fee for a Commercial applicant for outdoor dining shall be waived.

Section 4. The Planning Commission shall consider requests for new or additional outdoor seating up to 30 seats. The Planning Commission may approve new or additional outdoor seats over the 30 seat threshold where the applicant can show that they can adequately comply with all State of Ohio Department of Health orders, can maintain adequate parking for the establishment without over burdening nearby residential neighborhoods, and that the seats and activity will not negatively impact abutting residential neighborhoods.

Section 5. The Planning Commission may permit the use of parking lots, the public right of way, , as an outdoor dining facility. Outdoor dining facilities shall require a barrier where it is located within a parking lot, within the parking area located in the public right of way, or where alcohol is served.

If the proposal is a temporary or permanent structure, Planning Commission shall obtain an opinion from the appropriate safety department, Building Department and/or City Engineer; such review shall be completed within 7 days of referral from the Commission. Failure to timely complete the review shall not permit Planning Commission to reject such application.

Section 6. No entertainment or speakers shall be permitted on the premises of the outdoor dining facility.

Section 7. The outdoor dining facility shall not be available for use after 10:00 pm, but Planning Commission can set an earlier closing time for the outdoor dining facility based upon the unique aspects of each application.

Section 8. Where an Outdoor/Seasonal Dining Facility or any portion of an Outdoor/Seasonal Dining Facility is located on public property, except where located in an on-street parking space, and no alcohol is served at the establishment, the owner of the facility shall

provide an insurance policy in an amount approved by the Director of Law, but no more than \$1 million, with the City named as an additional insured.

Section 9. The temporary conditional use permit may be terminated by the Director of Planning and Development or designee if any requirements are not followed and/or if the property is the subject of multiple complaints, the outdoor/seasonal dining facility, within 10 days of notice of such terminations, may appeal the termination decision to the Planning Commission. The Planning Commission shall hold a public hearing within 30 days of the appeal and either uphold or deny the appeal.

Section 10. All plans shall be reviewed administratively unless the Planning Commission specifies that the plan shall be reviewed by Architectural Board of Review.

Section 10. Any applicant with an existing conditional use permit for an Outdoor/Seasonal Dining Facility may apply to expand its Outdoor/Seasonal Dining Facility. The conditional use permit fee shall be waived. If granted, the area that was not included in the initial conditional use permit shall be subject to all provisions of this resolution.

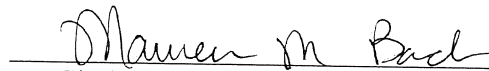
Section 11. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were passed in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements.

Section 12. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least two thirds of the members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: 5/21/2020

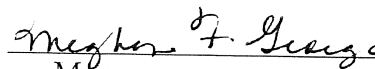


President of Council



Clerk of Council

Approved: 5/22/2020



Mayor